

*In the Matter of Joseph Greco, County Correction Lieutenant (PC2628E),  
Passaic County*  
DOP Docket No. 2004-4236  
**(Merit System Board, decided January 12, 2005)**

Joseph Greco requests a make-up examination for the promotional examination for County Correction Lieutenant (PC2628E), Passaic County.

By way of background, the subject promotional examination was administered on June 10, 2004 and was scheduled to begin at 6:00 p.m. A total of 28 employees applied for the subject written examination that resulted in an employment roster of 26 eligibles with an expiration date of September 1, 2007.

In an appeal filed at the examination center, Mr. Greco states that he arrived at the center at approximately 6:18 p.m. due to a major traffic accident and that he was stuck in bumper to bumper traffic for 45 minutes. Subsequently, Mr. Greco states that he was on Family Leave at the time of the examination due to his father's critical health condition and that he is the primary caregiver for his mother. Further, on the day of the examination, Mr. Greco states that he had to take his daughter to the emergency room at approximately 4:00 p.m. due to a fall where she fractured her arm. Although he attempted to get to the examination site on time, Mr. Greco states that he arrived a few minutes late and was advised that he would be required to request a make-up examination. In support of his appeal, Mr. Greco provides documentation that he was approved for Family Medical Leave between June 2, 2004 and June 11, 2004, a copy of the Discharge Instructions for Amanda Greco from the General Hospital Center at Passaic, Emergency Room, dated June 10, 2004, (time stamped 7:41 p.m.), and a copy of a Police Accident Report dated June 10, 2004, (time noted 5:43 p.m.) of an accident on Paramus Road and Century Road.

*N.J.A.C.* 4A:4-2.8(c) states that candidates for written examinations shall be admitted to the examination if they arrive at the test room within 15 minutes after the designated time.

## **CONCLUSION**

As a result of the New Jersey Supreme Court decision in *In the Matter of Police Sergeant (PM3776V), City of Paterson*, 176 N.J. 49 (2003), a make-up examination pilot program was established, effective August 18, 2003 and running through August 17, 2004, to address test security concerns for public safety titles. The pilot program provides that make-up examinations for entry-level and promotional public safety exams may be authorized only in cases of: (a) error by the Department of Personnel or appointing authority; (b) death in the candidate's

immediate family as evidenced by a copy of the death certificate; (c) catastrophic illness wherein the candidate has either suffered a life-threatening injury or illness, or requires an extended convalescent period, as evidenced by a doctor's diagnosis and statement, as well as documentation from the candidate's employer noting the candidate's related leave from work; (d) military leave, pursuant to *N.J.A.C. 4A:4-2.9(c)*; or (e) exoneration from pending disciplinary or criminal charges, pursuant to *N.J.A.C. 4A:4-2.9(d)*. In addition, candidates are given a make-up exam when the next regularly scheduled exam for their particular title is administered.

In the matter at hand, the appellant was delayed for the examination due to his daughter's trip to the emergency room and the traffic back up. Although these incidents do not technically satisfy the standards required to warrant a make-up examination, it is appropriate to relax the regulatory provisions on equitable grounds in this case and provide Mr. Greco a make-up exam when the next regularly scheduled examination is administered. In *In the Matter of Dave Varga*, (MSB, decided November 8, 2001), the Board granted a make-up examination to a Police Sergeant candidate who evidenced he was called to accompany his wife who was required to undergo emergency surgery on the day of the examination. In *Varga*, the Board reasoned that although the appellant's situation did not precisely fit within the parameters of the more stringent rule for law enforcement make-up examinations, it was clearly evident that the candidate had compelling reasons to miss the examination. Additionally, in *In the Matter of Pierre Keller* (MSB, decided August 12, 2003), the Board granted a make-up examination to a Police Lieutenant candidate whose wife was rushed to the hospital on the day of the examination after she fell off of a ladder and suffered from bruises and a concussion. In the instant matter, Mr. Greco had compelling reasons to be with his daughter while she was in the emergency room and he attempted to get to the test center on time. However, his efforts were thwarted by circumstances beyond his control due to a traffic accident that backed up traffic.

## **ORDER**

Therefore, it is ordered that this appeal be granted and Mr. Greco be scheduled for a make-up examination during the next regularly scheduled examination for this title.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.